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11
12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15 UNITED STATES OF AMERICA,) No.: CR 3 05 70677 BZ
16 Plaintiff,) PARTIES' STIPULATION AND
17 v.) PROPOSED ORDER CONTINUING
18 NASIR JAVAID,) PRELIMINARY HEARING OR
19 Defendant.) ARRRAIGNMENT AND WAIVING TIME
20) UNDER THE SPEEDY TRIAL ACT AND
21) FRCP 5.1
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The parties stipulate and agree, and the Court finds and holds, as follows:

1. The parties initially appeared on the complaint in this matter on September 7, 2005, and the preliminary hearing/arraignment date was set for September 27, 2005.
2. The parties appeared on September 9, 2005 for identification of defense counsel. At the September 9, 2005 hearing, the parties requested that the preliminary hearing/arraignment date be continued from September 27, 2005 until October 18, 2005.
3. The parties requested an exclusion of time from September 27, 2005 through October 18, 2005, based upon effective preparation of counsel. The parties moved that this same time period be excluded from the calculation of time under the Speedy Trial Act and Federal Rule of Criminal Procedure 5.1.
4. In addition, counsel for the Government will be out of the country during the week of September

1 26, 2005.

2 5. In light of the foregoing facts, the failure to grant the requested exclusion would unreasonably
3 deny counsel for the defense the reasonable time necessary for effective preparation, taking into
4 account the exercise of due diligence, and would deny the Government continuity of counsel. See 18
5 U.S.C. § 3161(h)(8)(A), (B)(iv). The ends of justice would be served by the Court excluding the
6 proposed time period. These ends outweigh the best interest of the public and the defendant in a
7 speedy trial. See id. § 3161(h)(8)(A). In addition, the Defendant consents and there is good cause to
8 extend time under Rule 5.1.

9 6. For the reasons stated, the time period from September 27, 2005 through October 18, 2005
10 shall be excluded from the calculation of time under the Speedy Trial Act and Federal Rule of Criminal
11 Procedure 5.1.

12 SO STIPULATED.

13 DATED: 9/26/05 Respectfully Submitted,

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16 /s/
MICHELLE MORGAN-KELLY
17 Assistant United States Attorney

18 DATED: 9/26/05
19
20 /s/
JAMES BUSTAMANTE
Counsel for Defendant Nasir Javaid

21 PURSUANT TO STIPULATION, IT IS SO ORDERED.

22
23 DATED: September 27, 2005
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25 
HON. JOSEPH C. SPERO
26 United States Magistrate Judge
27
28 STIPULATION AND PROPOSED ORDER
NO. 3 05 70677 BZ

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee of the office of the United States Attorney, Northern District of California and is a person of such age and discretion to be competent to serve papers. The undersigned certifies that she caused copies of

**PARTIES' STIPULATION AND PROPOSED ORDER CONTINUING PRELIMINARY
HEARING OR ARRAIGNMENT AND WAIVING TIME UNDER
THE SPEEDY TRIAL ACT AND FRCP 5.1**

in the case of **UNITED STATES V. NASIR JAVAID, CR 05-70677** to be served on the parties in this action, by placing a true copy thereof in a sealed envelope, addressed as follows which is the last known address:

James A. Bustamante, Esq
809 Montgomery Street, 2nd Floor
San Francisco, CA 94133
FAX NO: 415-394-3806

(By Personal Service), I caused such envelope to be delivered by hand to the person or offices of each addressee(s) above.

(By Facsimile), I caused each such document to be sent by Facsimile to the person or offices of each addressee(s) above.

(By Mail), I caused each such envelope, with postage thereon fully prepaid, to be placed in the United States mail at San Francisco, California.

(By Fed Ex), I caused each such envelope to be delivered by FED EX to the address listed above.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 26, 2005

/s/
RAWATY YIM
United States Attorney's Office